

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No. 483 of 1998

For Approval and Signature:

Hon'ble MISS JUSTICE R.M.DOSHIT

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?  
1 to 5 : NO

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BUDDHIPRASAD SHANKARLAL TRIVEDI

Versus

STATE OF GUJARAT

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Appearance:

MR NS SHETH for Petitioner

MR SR DIVETIA APP for Respondent No. 1

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CORAM : MISS JUSTICE R.M.DOSHIT

Date of decision: 05/08/98

ORAL JUDGEMENT

Heard learned advocate Mr. N.S Sheth for the petitioner and learned APP Mr.S.R Divetia, for the Respondent-State.

2. This petition under Article 227 of the Constitution of India has been preferred against the judgment and order dated 21st May, 1998 passed by the

learned Sessions Judge, Banaskantha in Criminal Revision Application No. 31 of 1998 confirming the order of remand of the petitioner herein to the police custody for 4 days made by the learned Judicial Magistrate First Class, Deesa on 10th May, 1998.

3. It appears that on 14th January, 1991 a complaint was lodged before the Agathara Police Station, which is registered as CR No. 123/91 against the present petitioner and two others for alleged commission of offence punishable under Sections 409, 465, 468, 475 and 114 IPC. Petitioner at the relevant time was serving as a Cashier in Rampura {Dama} Central Cooperative Bank Limited and other two accused persons were Clerk and Peon serving in the said Bank. During their service tenure from 9-1-1987 to 11-1-1991, these three accused are alleged to have misappropriated a sum of Rs. 12,24,990 belonging to the various depositors of the Bank. Pursuant to the above referred complaint, lodged on 14th January, 1991, the petitioner No. 1 filed Criminal Misc. Application No. 280 of 1998 under Section 438 CrPC for anticipatory bail which was granted by the learned Magistrate on condition, inter alia, that petitioner should make himself available for investigation as and when required by the police. On 12th May, 1998, the prosecution made an application before the learned Magistrate seeking 7 days remand of the petitioner to the police custody. The said application was heard and on the same date i.e. on 12th May, 1998, was partially granted and the petitioner was remanded to the police custody for a period of 4 days. Further, the police was directed to produce the petitioner before the learned Magistrate on 16th May, 1998 at 5.30 in the afternoon. Feeling aggrieved, the petitioner preferred above referred Criminal Revision Application No. 31 of 1998 before the learned Sessions Judge which was rejected on 21st May, 1998, as recorded hereinabove. Feeling aggrieved, the petitioner has preferred the present petition.

It appears that pursuant to the complaint lodged against the petitioner, the petitioner had deposited a sum of Rs. 5,65,000/- with the Bank between the period from 20th February, 1991 to 19th May, 1991. However, the Bank has yet to recover a sum of Rs. 6,55,990/-. Besides, it is found that some 100 blank cheques have also been stolen from the Bank which are required to be recovered. Further, the accused No. 3; Peon serving in the Bank, has died pending investigation and the accused No. 2; the Clerk, is not traceable. Even the petitioner was present at the time of hearing of the application for

remand and no sooner the order granting the remand for four days was made, then he left the Court premises. He has not made himself available for investigation as and when required by the police. Thus, he has been found to have committed breach of the condition of anticipatory bail granted to him.

In above view of the matter, the order remanding the petitioner to the Police custody for four days made by the learned Magistrate and confirmed by the learned Sessions Judge cannot be said to be erroneous or illegal. The orders made by the Courts below do not call for interference by this Court. Petition is, therefore, dismissed. Rule is discharged. Ad-interim relief is vacated. There shall be no order as to costs.

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Prakash\*